

103^D CONGRESS
1ST SESSION

H. R. 829

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records; to authorize the establishment of a DNA identification index; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. EDWARDS of California (for himself, Mr. HYDE, and Mr. KOPETSKI) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records; to authorize the establishment of a DNA identification index; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “DNA Identification
5 Act of 1993”.

1 **SEC. 2. FUNDING TO IMPROVE THE QUALITY AND AVAIL-**
2 **ABILITY OF DNA ANALYSES FOR LAW EN-**
3 **FORCEMENT IDENTIFICATION PURPOSES.**

4 (a) DRUG CONTROL AND SYSTEM IMPROVEMENT
5 GRANT PROGRAM.—Section 501(b) of title I of the Omni-
6 bus Crime Control and Safe Streets Act of 1968 (42
7 U.S.C. 3751(b)) is amended—

8 (1) in paragraph (20) by striking “and” at the
9 end,

10 (2) in paragraph (21) by striking the period at
11 the end and inserting “; and”, and

12 (3) by adding at the end the following:

13 “(22) developing or improving in a forensic lab-
14 oratory a capability to analyze deoxyribonucleic acid
15 (hereinafter in this title referred to as ‘DNA’) for
16 identification purposes.”.

17 (b) STATE APPLICATIONS.—Section 503(a) of title I
18 of the Omnibus Crime Control and Safe Streets Act of
19 1968 (42 U.S.C. 3753(a)) is amended by adding at the
20 end thereof the following new paragraph:

21 “(12) If any part of a grant made under this
22 part is to be used to develop or improve a DNA
23 analysis capability in a forensic laboratory, a certifi-
24 cation that—

25 “(A) DNA analyses performed at such lab-
26 oratory will satisfy or exceed then current

1 standards for a quality assurance program for
2 DNA analysis, issued by the Director of the
3 Federal Bureau of Investigation under section 3
4 of the DNA Identification Act of 1993;

5 “(B) DNA samples obtained by, and DNA
6 analyses performed at, such laboratory will be
7 accessible only—

8 “(i) to criminal justice agencies for
9 law enforcement identification purposes;

10 “(ii) for criminal defense purposes, to
11 a defendant, who shall have access to sam-
12 ples and analyses performed in connection
13 with the case in which such defendant is
14 charged; or

15 “(iii) if personally identifiable infor-
16 mation is removed, for a population statis-
17 tics database, for identification research
18 and protocol development purposes, or for
19 quality control purposes; and

20 “(C) such laboratory, and each analyst
21 performing DNA analyses at such laboratory,
22 will undergo, at regular intervals of not to ex-
23 ceed 180 days, external proficiency testing by a
24 DNA proficiency testing program meeting the

1 standards issued under section 3 of the DNA
2 Identification Act of 1993.”.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
4 1001(a) of the Omnibus Crime Control and Safe Streets
5 Act of 1968 (42 U.S.C. 3793(a)) is amended—

6 (1) by redesignating the last 3 paragraphs se-
7 quentially as paragraphs (7), (8), and (9); and

8 (2) by adding at the end the following:

9 “(10) There are authorized to be appropriated
10 for each of the fiscal years 1994 through 1998
11 \$10,000,000 for grants to the States for DNA anal-
12 ysis.”.

13 **SEC. 3. QUALITY ASSURANCE AND PROFICIENCY TESTING**
14 **STANDARDS.**

15 (a) PUBLICATION OF QUALITY ASSURANCE AND PRO-
16 FICIENCY TESTING STANDARDS.—(1) Not later than 180
17 days after the date of the enactment of this Act, the Direc-
18 tor of the Federal Bureau of Investigation shall appoint
19 an advisory board on DNA quality assurance methods.
20 The Director shall appoint members of the board from
21 among nominations proposed by the head of the National
22 Academy of Sciences and professional societies of crime
23 laboratory officials. The advisory board shall include as
24 members scientists from state and local forensic labora-
25 tories, molecular geneticists and population geneticists not

1 affiliated with a forensic laboratory, and a representative
2 from the National Institute of Standards and Technology.
3 The advisory board shall develop, and if appropriate, peri-
4 odically revise, recommended standards for quality assur-
5 ance, including standards for testing the proficiency of fo-
6 rensic laboratories, and forensic analysts, in conducting
7 analyses of DNA.

8 (2) The Director of the Federal Bureau of Investiga-
9 tion, after taking into consideration such recommended
10 standards, shall issue (and revise from time to time)
11 standards for quality assurance, including standards for
12 testing the proficiency of forensic laboratories, and foren-
13 sic analysts, in conducting analyses of DNA.

14 (3) The standards described in paragraphs (1) and
15 (2) shall specify criteria for quality assurance and pro-
16 ficiency tests to be applied to the various types of DNA
17 analyses used by forensic laboratories. The standards shall
18 also include a system for grading proficiency testing per-
19 formance to determine whether a laboratory is performing
20 acceptably.

21 (4) Until such time as the advisory board has made
22 recommendations to the Director of the Federal Bureau
23 of Investigation and the Director has acted upon those
24 recommendations, the quality assurance guidelines adopt-
25 ed by the technical working group on DNA analysis meth-

1 ods shall be deemed the Director's standards for purposes
2 of this section.

3 (b) ADMINISTRATION OF THE ADVISORY BOARD.—

4 For administrative purposes, the advisory board appointed
5 under subsection (a) shall be considered an advisory board
6 to the Director of the Federal Bureau of Investigation.
7 Section 14 of the Federal Advisory Committee Act (5
8 U.S.C. App.) shall not apply with respect to the advisory
9 board appointed under subsection (a). The board shall
10 cease to exist on the date 5 years after the initial appoint-
11 ments are made to the board, unless the existence of the
12 board is extended by the Director of the Federal Bureau
13 of Investigation.

14 **SEC. 4. INDEX TO FACILITATE LAW ENFORCEMENT EX-**
15 **CHANGE OF DNA IDENTIFICATION INFORMA-**
16 **TION**

17 (a) IN GENERAL.—The Director of the Federal Bu-
18 reau of Investigation may establish an index of—

19 (1) DNA identification records of persons con-
20 victed of crimes;

21 (2) analyses of DNA samples recovered from
22 crime scenes; and

23 (3) analyses of DNA samples recovered from
24 unidentified human remains.

1 (b) CONTENT OF INDEX.—Such index may include
2 only information on DNA identification records and DNA
3 analyses that are—

4 (1) based on analyses performed in accordance
5 with publicly available standards that satisfy or ex-
6 ceed the guidelines for a quality assurance program
7 for DNA analysis, issued by the Director of the Fed-
8 eral Bureau of Investigation under section 3 of the
9 DNA Identification Act of 1993;

10 (2) prepared by laboratories, and DNA ana-
11 lysts, that undergo, at regular intervals of not to ex-
12 ceed 180 days, external proficiency testing by a
13 DNA proficiency testing program meeting the stand-
14 ards issued under section 3 of the DNA Identifica-
15 tion Act of 1993; and

16 (3) maintained by Federal, State, and local
17 criminal justice agencies pursuant to rules that allow
18 disclosure of stored DNA samples and DNA analy-
19 ses only—

20 (A) to criminal justice agencies for law en-
21 forcement identification purposes;

22 (B) for criminal defense purposes, to a de-
23 fendant, who shall have access to samples and
24 analyses performed in connection with the case
25 in which such defendant is charged; or

1 (C) if personally identifiable information is
2 removed, for a population statistics database,
3 for identification research and protocol develop-
4 ment purposes, or for quality control purposes.

5 (c) The exchange of records authorized by this section
6 is subject to cancellation if the quality control and privacy
7 requirements described in subsection (b) of this section are
8 not met.

9 **SEC. 5. FEDERAL BUREAU OF INVESTIGATION**

10 (a) PROFICIENCY TESTING REQUIREMENTS.—

11 (1) GENERALLY.—Personnel at the Federal
12 Bureau of Investigation who perform DNA analyses
13 shall undergo, at regular intervals of not to exceed
14 180 days, external proficiency testing by a DNA
15 proficiency testing program meeting the standards
16 issued under section 3(b). Within one year of the
17 date of enactment of this Act, the Director of the
18 Federal Bureau of Investigation shall arrange for
19 periodic blind external tests to determine the pro-
20 ficiency of DNA analysis performed at the Federal
21 Bureau of Investigation laboratory. As used in this
22 paragraph, the term “blind external test” means a
23 test that is presented to the laboratory through a
24 second agency and appears to the analysts to involve
25 routine evidence.

1 (2) REPORT.—For five years after the date of
2 enactment of this Act, the Director of the Federal
3 Bureau of Investigation shall submit to the Commit-
4 tees on the Judiciary of the House and Senate an
5 annual report on the results of each of the tests re-
6 ferred to in paragraph (1).

7 (b) PRIVACY PROTECTION STANDARDS.—

8 (1) GENERALLY.—Except as provided in para-
9 graph (2), the results of DNA tests performed for
10 a Federal law enforcement agency for law enforce-
11 ment purposes may be disclosed only—

12 (A) to criminal justice agencies for law en-
13 forcement identification purposes; or

14 (B) for criminal defense purposes, to a de-
15 fendant, who shall have access to samples and
16 analyses performed in connection with the case
17 in which such defendant is charged.

18 (2) EXCEPTION.—If personally identifiable in-
19 formation is removed, test results may be disclosed
20 for a population statistics database, for identification
21 research and protocol development purposes, or for
22 quality control purposes.

23 (c) CRIMINAL PENALTY.—(1) Whoever—

24 (A) by virtue of employment or official position,
25 has possession of, or access to, individually identifi-

1 able DNA information indexed in a database created
2 or maintained by any Federal law enforcement agen-
3 cy; and

4 (B) willfully discloses such information in any
5 manner to any person or agency not entitled to re-
6 ceive it;

7 shall be fined not more than \$100,000.

8 (2) Whoever, without authorization, willfully obtains
9 DNA samples or individually identifiable DNA informa-
10 tion indexed in a database created or maintained by any
11 Federal law enforcement agency shall be fined not more
12 than \$100,000.

13 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

14 There are authorized to be appropriated to the Fed-
15 eral Bureau of Investigation \$2,000,000 for each of fiscal
16 years 1994 through 1998 to carry out sections 3, 4, and
17 5 of this Act.

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